

July 11, 2002

Federal Communications Commission, Allen Owen, Mayor, 1522 Texas Parkway,
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**FCC – Proposed Regulatory Treatment for Broadband Access to the Internet Over
Cable Facilities - CS Docket No. 02-52**

Dear FCC:

Please support our local-access station.

These comments are filed by the City of Missouri City in support of the comments filed by the Alliance of Local Organizations Against Preemption (“the Alliance”). Like the Alliance, The City of Missouri City believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under that Cable Act.

1. Our community and the status of cable modem service

The City of Missouri City is a City of 54,000 people. It is served by Warner Cable, which has approximately 30,000 subscribers. The cable system serving our community offers 100 channels to subscribers. Cable modem service is not offered in our community. For communities now being upgraded: The cable system in our community is being upgraded, and once it is upgraded, cable modem service should be offered throughout this community.

2. Our franchise and cable modem service.

Our franchise was issued in 1979 and did not directly address cable modem service. However, under our franchise the definition of gross revenues is broad enough to include cable modem service. Pursuant to that provision, we were entitled to receive franchise fees on cable modem service. We estimate that we will lose \$ 67,000-over the next 15-years if we cannot charge a fee on revenues from cable modem service. Our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms.

3. How we regulate cable modem service.

We regularly receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- .Cable modem service is marketed jointly with cable service.
- When we get complaints about promotional practices, the complaint may apply to both services.
- .A single bill is sent for cable modem and cable services, so billing complaints involve both.
- .Customer service calls go to a single number, so telephone answering policies affect both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and
- Customer complaints about installations and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

Cable modem service is also subject to the following requirements under our franchise:

- .the operator is required to provide cable modem service throughout its service area, and is prohibited from redlining.
- .the operator is prohibited from discriminating against potential customers.
- .the operator is prohibited from demanding exclusive contracts as a condition of providing service to MDUs and others.

However, there are also important protections that did apply under our franchise that may not apply if cable modem services is NOT a cable service.

4. Our community and broadband deployment

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. E.g. Library, proposed e-gov, initiatives bringing the Internet to schools via I-Nets. The funds that we obtain from cable modem franchise fees can help support these and other activities. If we lose those funds, it will be more difficult to protect consumers, and to promote broadband deployment in this community.

Respectfully submitted,
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